

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces the proposed procedures for disbursement of \$34,551,984 (plus additional accrued interest) in alleged or adjudicated crude oil overcharges obtained by the DOE from Dorchester Master Limited Partnership (Case No. VEF-0005), Howell Corporation (Case No. VEF-0006), Placid Oil Company (Case No. VEF-0008), Eton Trading Corporation (Case No. VEF-0009) and Rodgers Hydrocarbon Corporation (Case No. VEF-0010). The OHA has determined that the funds obtained from these firms, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days of publication in the **Federal Register**, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to Case Nos. VEF-0005 *et al.*

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586-2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR § 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute a total of \$34,551,984, plus additional accrued interest, remitted to the DOE by Dorchester Master Limited Partnership, Howell Corporation, Placid Oil Company, Eton Trading Corporation and Rodgers Hydrocarbon Corporation. The DOE is currently holding these funds in interest bearing escrow accounts pending distribution.

The OHA proposes to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be

distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury.

The final deadline for the crude oil proceeding is June 30, 1995. As we state in the Proposed Decision, any party who has previously submitted a refund application in the crude oil refund proceeding should not file another Application for Refund. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the proceedings are finalized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received by the OHA will be available for public inspection between the hours of 1 p.m. to 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Dated: June 12, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.
June 12, 1995.

Proposed Decision and Order of the Department of Energy; Implementation of Special Refund Procedures

Names of Firms:

Dorchester Master Limited Partnership
Howell Corporation
Placid Oil Company
Eton Trading Corporation
Rodgers Hydrocarbon Corporation

Dates of Filing:

February 27, 1995
February 27, 1995
February 28, 1995
March 8, 1995
March 8, 1995

Case Numbers:

VEF-0005
VEF-0006
VEF-0008
VEF-0009
VEF-0010

In accordance with the procedural regulations of the Department of Energy (DOE), 10 C.F.R. part 205, Subpart V, the Office of General Counsel, Regulatory Litigation ("OGC") (formerly

the Economic Regulatory Administration (ERA), Office of Enforcement Litigation), filed five Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on February 27, 1995, February 28, 1995, and March 8, 1995. The Petitions request that OHA formulate and implement procedures to distribute funds received by the DOE from Dorchester Master Limited Partnership (DMLP), Howell Corporation (Howell), Placid Oil Company (Placid), Eton Trading Corporation (Eton) and Rodgers Hydrocarbon Corporation, pursuant to DOE enforcement proceedings involving allegations of crude oil pricing and allocation violations by the firms. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute these funds, which are being held in an interest-bearing escrow account maintained at the Department of the Treasury.

I. Background

A. Dorchester Master Limited Partnership

During the period of petroleum price controls, the firms which now comprise DML¹ were engaged in crude oil refining and reselling. The firms were therefore subject to regulations governing the pricing and allocation of crude oil set forth at 10 C.F.R. Parts 211 and 212 of the Mandatory Petroleum Price and Allocation Regulations. In an audit which covered the period from November 1, 1974 through August 1979 the ERA identified instances in which it believed that Dorchester's refinery subsidiary and reseller division engaged in the improper switching of crude oil certifications in violation of 10 C.F.R. §§ 211.67 (the Crude Oil Entitlements Program) and 212.131(b). As a result of the ERA audit, a Proposed Remedial Order (PRO) was issued to Dorchester on March 19, 1982 (Case No. 6A0X00278). The OHA affirmed the findings of the PRO and issued a Remedial Order (RO) to Dorchester on March 11, 1985. *Dorchester Gas Corp.*, 12 DOE ¶ 83,034 (1985), appeal docketed, No. R085-12-000 (FERC April 22, 1985). As a result of another ERA audit, on March 9, 1983, a PRO

¹ DMLP, a limited partnership formed in 1984, is the successor to Dorchester Gas Corporation (Dorchester) and includes Damson Oil Corporation (Damson), the general partner of DMLP, and Doram Energy, Inc. (Doram), a subsidiary of Damson. Therefore, DMLP will be used to refer collectively to Dorchester, Damson, and Doram, and their subsidiaries and affiliates. We will refer to the individual firms in some instances, since the audits originated with those firms during the period of price controls.